

COUNCIL MINUTES  
TIGARD CITY COUNCIL MEETING  
August 10, 2004

The meeting was called to order at 6:31 p.m. by Mayor Dirksen.

Council Present: Mayor Dirksen, Councilors Moore, Sherwood, Wilson, Woodruff

- STUDY SESSION

- > TUALATIN BASIN GOAL 5 PROGRAM UPDATE

Julia Hajduk, Associate Planner, explained the Coordinating Committee held a public hearing on Monday, August 2, deliberated at their meeting last night, and expects to make a decision next Monday, August 16. The Committee may want to slow down the process. The overall goal for this project is to improve the environment and to avoid further resource impacts. Ms. Hajduk reviewed the three examples, one each for commercial, industrial and residential areas. The red areas are wetlands; the outlining areas are buffer areas that cannot be developed right now under Tigard's existing regulations; and the green areas are the flood plain, which under existing development code could be developed after sensitive lands review with balanced cut and fill. Under Goal 5, the red areas have strict limits, the green areas have moderate limits, meaning there could be development up to 50 percent with a potential up to 85 percent with alternative analysis, and in the light blue area, and there could be development as long as any resource removed was mitigated.

Councilor Wilson explained the Council had previously seen this map, but what has occurred is the recommended program would prohibit all development except where there is a potential taking in the strictly limited areas, and would prohibit 50 percent of the lot to be developed in the moderately limited areas to 1 to 1.5. In lightly-limited areas, the resource can be completely removed, but then it is required to be replaced and mitigate at a rate of 1.1 to 1. There are other basic parameters to the program that Council probably could not discuss at this meeting.

Ms. Hajduk reviewed in more detail each of the three examples of commercial, industrial and residential areas. One policy question is whether all the flood plain area should be strictly limited. The recommendation right now for the high intensity urban commercial and residential areas is that the flood plains not be strictly limited on high economic value properties which are other red areas in residentially zoned properties. The question remains whether or not flood plains should be strictly limited.

prepared the maps, the resource areas meander in and out of those properties. The resource protected area would not affect existing development, it affects only future development requiring a building permit such as a deck or something else they would want to put in their back yards. Under certain circumstances, changing even up to 200 square feet of landscaping in the back yards could be impacted. He had another concern relating to the dedicated greenway area part of commonly owned open space where map adjustments might be needed.

Mayor Dirksen indicated he felt some kind of appeals process would be needed to allow individuals to challenge how the map was drawn and to make a case why the line should be changed.

Councilor Wilson noted the concerns about mapping errors, which has been acknowledged.

Mayor Dirksen reviewed his concern to try to preserve a wildlife habitat area inside the current urban growth boundary. By taking all the wildlife habitat area out of the buildable land category, the urban growth boundary will need to be expanded, and then ending up protecting the already degraded wildlife habitat areas inside the city while losing good wildlife habitat areas outside the city.

Councilor Wilson explained Metro has already mapped areas outside the existing urban growth boundary and have presumably showed wildlife habitat areas as protected. Presumably future expansion of the urban growth boundary would occur on farm land. That conflicts within existing state law. In addition, Metro has taken Class 2 resources outside the boundary and applied strictly limited designations to them. That is why Area 63 and Area 64 are almost all colored dark green.

Ms. Hajduk explained those areas were identified as potentially being left in a natural state. The discussion papers did include comments about the possibility to reducing those levels and applying the underlying zone in those areas. In addition, there is a possibility of putting the HIU, High Density Urban Designation, placed on those areas identified as commercial or industrial in those areas with the potential residential areas having a different protection level. Metro has a lot of documentation about that. Regarding wetlands, there is a wetland overlay. As people come in to apply to develop their property, they would have to delineate those wetlands and to identify exactly what the resource is and not just take the map as being accurate.

Councilor Wilson noted the Coordinating Committee heard a lot of testimony from people who planted trees on their property which were now being protected. Wetland areas had three distinct criteria for delineation.

Ms. Hajduk pointed out Metro is in the process of trying to provide specific criteria that would be used; however, she has not seen the criteria and therefore cannot comment on it. Regarding map corrections, Metro has the authority to make map corrections. If a municipality approves a change, Metro will change the map accordingly. The map has already been modified a little to acknowledge properties that have been logged. Metro has an over-all authority, but it is her understanding that when the local review authority reviews delineations and makes adjustments to the designations, Metro will update the map. She pointed out there is other criteria relating to mapping the upland wildlife area, such as connection to water, larger sized areas would probably be a better wildlife habitat, proximity to other habitats, and connection to wildlife.

Mr. Hendryx suggested the staff focus on the questions that Council might want answers to. Council have concerns about the protection and mitigation aspects and to what degree those will occur, which is the primary issue that sets the scale of protecting various resources. Are lands with the highest value protected or is some development going to be allowed. There are also program components relating to the degree of mitigation, the off-site mitigation issue and the possible in lieu payment that Council is concerned about.

Councilor Woodruff noted before the Goal 5 discussion goes too far, it might be better if all this discussion be slowed down until after the November election on the property compensation ballot measure is voted on.

Councilor Sherwood asked who would be responsible for paying for all this land if they are unable to use it under the Goal 5.

Mayor Dirksen noted that is a completely separate issue that he would like to ask the Task Force. He asked if the state had a pot of money to pay all the affected property owners.

Councilor Wilson explained the state is not going to provide the money. The courts have ruled that a taking only occurs when all economic value is lost. Even if a person has 100 acres but can build one house, there is still economic value and courts have stated the owner did not have to be compensated.

Councilor Woodruff suggested the Council hold another study session on this issue where more time can be spent.

Councilor Wilson explained Washington County was running this process and a lot of people requested that the process be slowed down. If the County brings back a revised schedule next week, then this issue can be further discussed by the Council;

otherwise, the Coordinating Committee is scheduled to vote on Goal 5 for the Tualatin River Basin next week.

Ms. Hajduk concurred she also heard committee members and the public say they wanted the process be slowed down.

Mayor Dirksen said he felt there were a lot of unanswered questions that need to be resolved before the resolution is voted on. He did not see how the Committee could even consider voting on the resolution next week when there are all these questions and no answers being presented.

Councilor Wilson explained that the Tualatin River Basin study is being conducted parallel to Metro's process for dealing with the whole region. Cities in Washington County got together and told Metro that they felt a separate review of the Tualatin Water Basin was necessary and they would do their own study on a watershed level. Metro would still have to buy off the Washington County cities plan. There are areas of disagreement with the program Metro developed, but those issues can be worked out. He noted the meeting held on Monday, August 9, was the first opportunity that city representatives had to comment on the proposal. There were a lot of comments made at that meeting similar to the same concerns Councilors expressed tonight.

Councilor Moore asked if Council will discuss this issue at its Workshop Meeting on August 17. Mr. Hendryx explained that will depend on what occurs with the resolution next week by the Coordinating Committee. Councilor Wilson requested this issue be placed on next week's Council Workshop Meeting on August 17 if the Committee did not act on August 16.

- ADMINISTRATIVE ITEMS

- CONSIDER CHANGE OF AGENDA ORDER

Mayor Dirksen asked if items 4 and 5 would actually take 5 minutes each. Mr. Monahan indicated they would.

The Council agreed to switch the order of Items 6 and 7, and consider the King City Feasibility Study before the Public Hearing on the Bull Mountain Annexation Ballot Title (Item No. 8)

## 1. Calendar Review

- August 17: City Council Workshop
- August 19: Mayor attends Meet & Greet @ Governor's Residence in Salem
- August 21: Library Grand Opening
- August 24: City Council Business Meeting
- August 31: Potential City Council Meeting (Ballot Title?)
- September 14: City Council Business Meeting
- September 18: Community Fair

## ➤ NATIONAL LEAGUE OF CITIES

Mr. Monahan noted three spots have been reserved at the NLC Annual Conference. Mayor Dirksen and Councilor Sherwood have indicated they would be attending the conference. The third place would depend on who is elected in November.

## ➤ TVFR POSSIBLE LUNCH DATES AT STATION 51

- Thursday, September 16, Wednesday, September 29, or Wednesday, October 6

Councilors selected September 29 as the date for lunch at Station 51, Tualatin Valley Fire and Rescue.

- EXECUTIVE SESSION: Discuss pending litigation under ORS 192.660(2)(h).

Mayor Dirksen reviewed the parameters for executive sessions.

Mayor Dirksen recessed the Study Session at 7:09 p.m. in order to go into the Executive Session. The Executive Session was adjourned at 7:35 p.m.

## 1. BUSINESS MEETING

- 1.1 Mayor Dirksen called the Council and Local Contract Review Board Meeting to order at 7:38 p.m.
- 1.2 Roll Call: Mayor Dirksen, Councilors Moore, Sherwood, Wilson and Woodruff were present
- 1.3 Pledge of Allegiance
- 1.4 Council Communications & Liaison Reports
- 1.5 Call to Council and Staff for Non-Agenda Items

Mr. Monahan noted Item #6 and #7 would be reversed.

## 2. VISITOR'S AGENDA

Mr. Monahan noted a new timing device will be used. One minute before the end of time, the amber light comes on and has a single buzz. At the end of the total time, the red light comes on and has an intermittent buzz.

Ron Ellis Gaut, 10947 SW Chateau Lane, Tigard, commented about Goal 5 that Council discussed in the Council's Study Session. Clean water, air and a healthy wildlife population is important to all citizens, and no one has the right to take or damage public trust resources unless the right is specifically granted. If those resources are taken through development or other action, the public has the right to be compensated. Preservation of the watershed in terms of the Tualatin Basin is important to the community.

Alice Ellis Gaut, 10947 SW Chateau Lane, Tigard, stated she concurred with statements Councilor Wilson made in the Study session relating to the issue of takings, in the context of protecting sensitive lands. She encouraged the Basin partners to protect the public resources that are subject to the Goal 5 process.

Ken Henschel, 14530 SW 144<sup>th</sup> Avenue on Bull Mountain, indicated he is speaking on behalf of CPO 4B. He stated that Bruce Stobbe served on the CPO 4B steering committee and had been active in the community for a long time. Mr. Stobbe had battled cancer for a long time and died this morning. On behalf of CPO 4B, he would express condolences to Mr. Stobbe's family.

Dick Franzke, 14980 SW 133<sup>rd</sup> on Bull Mountain, noted he has practiced law and is very familiar with the legislative process and lobbying in Salem during the legislative session. He explained how a bill becomes a law, by going through hearings and votes. Most legislation is very deliberative, not inadvertent. Apparently the law concerning annexations in the Metro region is inadvertent legislation, because attorneys for the City of Tigard, Washington County, and Metro all missed the inadvertent legislation regarding annexation procedures in the metropolitan area.

Isador Morgavi, 15145 SW 199<sup>th</sup> Avenue on Bull Mountain, read a statement regarding the Bull Mountain Annexation process in which he indicated his support of the double majority voting process. (Agenda Item #2, Exhibit 1)

Mayor Dirksen noted the next person on the sign-up list is Goli Ameri wanting to testify about the Bull Mountain Annexation. As the Bull Mountain Annexation Plan is on the agenda, it would be inappropriate for testimony to be given at this time. He also noted the public hearing is closed on the Annexation Plan, but the record was left open for seven days to allow time for written testimony to be presented. The time for submitting additional testimony is closed. If Ms. Ameri wanted to wait until the public hearing on

the proposed Annexation Ballot Title, Item #8, she could do that. The Council concurred with Mayor Dirksen's ruling.

Mayor Dirksen noted Henry Kane had signed up to speak on the Visitor's Agenda, but wished to testify about the ballot title.

- Dan Murphy, representative from the Tigard Area Chamber of Commerce, was not present.

3. **CONSENT AGENDA:** Motion by Councilor Wilson, seconded by Councilor Sherwood, to adopt the Consent Agenda as follows:

3.1 Approve Council Minutes for July 13 and July 20, 2004

3.2 Receive and File

- a. Council Calendar
- b. Tentative Agenda

3.3 Appoint Planning Commission Members, Resolution No. 04-63

The motion was approved by a unanimous vote:

Mayor Dirksen	-	Yes
Councilor Moore	-	Yes
Councilor Sherwood	-	Yes
Councilor Wilson	-	Yes
Councilor Woodruff	-	Yes

Mayor Dirksen welcomed Marty Anderson who had been appointed to the Planning Commission.

4. **UPDATE ON CITY OF TIGARD'S COMMUNITY EMERGENCY RESPONSE TEAM (CERT) VOLUNTEER PROGRAM AND ACKNOWLEDGE VOLUNTEERS**

Dennis Koellermeier, Public Works Director, explained the Council approved creation of the CERT training program in April, modeling its program after similar programs in the cities of Hillsboro, Beaverton and Lake Oswego. The program is a partnership between the City and citizens to help neighborhoods become prepared to assist during emergencies. The trained volunteers assist their neighbors in a catastrophic emergency when emergency personnel are unable to respond immediately. The program consisted of 24 hours of training and volunteers are certified to provide life saving procedures, basic fire suppression and light search and rescue operations. Volunteers also assist the City with non-emergency events such as assisting at the Balloon Festival, Tigard Blast, and the

Unity Rally. He then introduced Mike Lueck, program assistant in the Public Works Department, who is the coordinator of the City's emergency management program.

Mr. Lueck noted each participant receives a certificate, identification badge, and a field operating guide which the class developed. Certificates, badge, and guide were then presented to the following CERT graduates: Steve Cousineau, Ron Holland, Ralph Hughes, Gayle Kuaffman, Dan Macdonald, Marilyn Smith, and Adair Yates. Mayor Dirksen also presented the graduates with a city pin.

## 5. UPDATE ON THE NEW TIGARD LIBRARY

Margaret Barnes, Library Director, indicated this is the last update on the New Tigard Library. PowerPoint slides showing aspects of the recent move to the new library, the Kids Wagon Parade to move children's books from the old to the new building were shown. This was accomplished with the assistance of employees from the Public Works and Police departments. Ms. Barnes pointed out that since the new building opened, over 6,000 items have been checked out, over 1,000 questions answered by the reference section, and over 100 new library cards issued. The Grand Opening will be held August 21 from 10 a.m. to 2 p.m. The project was completed within the budget.

## ITEM NO. 7 WAS HELD AT THIS TIME

### 6. PUBLIC HEARING – CONTINUATION OF CONSIDERATION OF A RESOLUTION FOR APPROVAL OF THE BULL MOUNTAIN ANNEXATION PLAN AND APPROVAL OF RELATED LAND USE ACTIONS – CONSIDER RESOLUTION ADOPTING FINDINGS (Oral Testimony will not be accepted)

Mayor Dirksen indicated this is a continuation of the Public Hearing, the testimony portion of the hearing was closed, and it is time for Council's consideration and deliberation.

- a. Mayor Dirksen acknowledged receipt of written testimony received prior to 5 PM on Tuesday, August 3.
- b. Council Discussion & Questions to Staff

Councilor Wilson read a prepared statement, a copy of which is on file with the City Recorder. (Agenda Item #6, Exhibit 2) Major points of his statement were:



- This proposal would be controversial, with only about 1/3 of Bull Mountain residents supporting annexation.
- This process required the City to focus on what additional benefits the residents of the annexed area would receive in exchange for increased taxes.
- Bull Mountain residents are already charged for potable water, and enforcement of building codes.
- Residents of Bull Mountain have access to City of Tigard parks, library and police services and do not pay for those services.
- The burden of taxation is substantially greater than the value of the benefits.
- Users should be able to voluntarily and collectively decide what level of service is appropriate for them.
- He supports using the double majority method for annexation of the Bull Mountain area.
- Bull Mountain residents should be equal participants in addressing the traffic on Pacific Highway and fixing up the downtown area.
- He appealed to Bull Mountain residents to carry their share of police, library, and parks, and then have money left over to address common problems.

Councilor Sherwood read her prepared statement, a copy of which is on file with City Recorder. (Agenda Item #6, Exhibit 3) Major points are as follows:

- During the 1980s, knew that her property in the Bull Mountain Areas would eventually be annexed to Tigard when sewers were finally linked to the Bull Mountain area.
- She served on the high school task force and received statistics that when build out of the Bull Mountain area was completed, population would be 10,000 residents, and the area would eventually be annexed to Tigard.
- While Urban Services Agreements has provided some of the services to the area, Tigard has been deemed to be the city the area would be annexed to for the past 23 years.
- Tigard will continue to be in sound financial shape even if Bull Mountain area is not annexed.
- She agreed that Tigard's comprehensive plan needs to be updated, which will be underway pending the outcome of the annexation election. The comprehensive plan for the Bull Mountain area also needs updating, but Washington County does not have funds to conduct the update.
- Tigard does not have the high crime rate some people have indicated, and Tigard has a great police force.
- Following hearings last December, the City Council postponed its vote and formed white paper committees in order to conduct more in-depth investigation of what the Bull Mountain residents would receive with annexation.

- Bull Mountain residents proposed that a portion of the area be annexed to King City, even though King City has never indicated any interest in annexing any part of the Bull Mountain area.

Councilor Sherwood stated that "Her wish for the residents of both Tigard and Bull Mountain. Bull Mountain residents have used the address of Tigard for as long as they have lived there. Their children attend Tigard schools; they shop in Tigard, used the roads, parks and the library. By the same token, Tigard residents travel over Bull Mountain roads, share friendships with residents there and consider Bull Mountain residents as part of their city. Tigard needs the residents of Bull Mountain, not for their money, but for the talents, energy and ideas. Tigard is at a crossroads in growth, and input and help from Bull Mountain residents is needed now, not two or ten years from now. I am asking that we all join together as one city to become an entitlement city for federal dollars. I am asking that we get together side by side and pressure the county for placement of Bull Mountain Road on the MSTIP plan at the soonest possible time. I am asking that we join together as a city of volunteers and continue to keep our taxes low by helping in areas that save our precious city dollars. I am asking that we join together to devise a way to obtain park land as soon as possible. I am asking that we all join hands in friendship as friends working together to build a vibrant, safe community. Instead of criticizing, let's all become part of the solution."

Councilor Woodruff stated when he was appointed to the Council in February, he was only vaguely aware of the annexation proposal, but reviewed the prior proposals. Tigard needs Bull Mountain more than Bull Mountain needs Tigard. If annexed, Bull Mountain not only would help the City's tax base, but residents would be an official part of the community. Residents currently participate on many advisory groups and have strong feelings about the city, but do not have a vote about what goes on in Tigard. He pointed out their elected representatives have let you down. The State Legislature has passed statutes even though there is some vagueness to them that relate to annexation in an orderly way in urban areas. Your Board of County Commissioners has supported this plan of annexing Bull Mountain to Tigard for almost two decades. Washington County Commissioners have not come to us and said to stop this from going forward. In fact, they continue to be clear that this is something that they believe should happen and will happen at some point. County Chair Tom Brian recently sent a letter to the Friends of Bull Mountain that basically said annexation is inevitable at some point, it is going to happen, and you have to get over the fact that it is in the process. It is ironic that those of you who are so adamantly against annexation have come to Tigard and are hanging your hat on an elected body that is not elected by you. Councilor Woodruff noted many issues are currently decided on a single majority vote: a) Both parents of school age children and those with no kids vote on school levies; b) both people who use libraries all the time and people who would never set foot in a library together vote on library levies, bond elections, and c) Both smokers and non-smokers together may vote on cigarette tax. In every one of

those cases, the minority could feel taken advantage of by the majority. I think this decision is so important that the whole community needs to vote on it. He further indicated he would support the double majority vote. He was concerned about some of the comments citizens have made. We can disagree on things, and still be respected. Between now and November, the Council's job is to make the case that annexation is in the best interest of both Tigard and Bull Mountain. He felt that Bull Mountain can receive more locally responsive services than the residents are receiving now. If the annexation is approved, residents would have a legal voice in how Tigard operates, be owners of the city not just neighbors of the City, and could hold the Council fully responsible for decisions that are made. Those of you who are adamantly opposed to this have eleven weeks to convince the people of Bull Mountain and Tigard that Bull Mountain is really not a part of this community and they should not have all the rights and responsibilities that go with being a city resident. He hopes that thoughtful people of Bull Mountain and Tigard will see that this is a best opportunity under the best terms for you to become official part of this city. He looks forward to the results of that vote in November.

Councilor Moore stated that as the senior member of the Council, this has been the subject before the Council for many years, which should have been done years ago. It became apparent when this process started that a small group was going to be very vocal. He has always thought what Tigard had to offer as a city would be of benefit to the people on Bull Mountain. On the other hand, he was probably the most vocal behind the scenes about the process, the impact on the citizens of Tigard and Bull Mountain, and the possible financial drain this would have on the existing citizens of Tigard. He was also very vocal about the proposed voting single majority process, and feel the Council is making the right choice by changing to the double majority method tonight. Hopefully over the next months, we will have the opportunity to share with you what we have to offer as a city, and what you have to offer us."

Mayor Dirksen read his prepared statement, a copy of which is on file with the City Recorder. (Agenda Item #6, Exhibit 4) Major points include:

- During this process, Council has received, read, and listened to a huge amount of testimony on this issue.
- There have also been allegations and outright accusations, about why it would be unwise, unfair and impossible for Tigard to annex the Bull Mountain area.
- Some of the issues, such as parks SDC's and needed street and road improvements are worthy of consideration and warrant further attention before the actual annexation takes place. The vast majority are unfounded, unsupported, and some downright unbelievable. Some comments may have been made in ignorance of the facts, or based on incomplete or misunderstood published data. Some comments have been made knowing full well they are without merit, but hoping that by repeating them over and over, some will come to believe them, and to

distract the city, the county, and their own neighbors from the real facts, and from the real issue, of which there is only one.

- The unincorporated area inside the urban growth boundary known as Bull Mountain needs to be brought inside a corporate municipality where the urban services needed by such an area can be provided over the long term. This has been stated by both Washington County, who currently has jurisdiction, and the State of Oregon. Washington County has identified the City of Tigard as the logical provider of necessary urban services for the Bull Mountain area. In some instances, Tigard already provides several of those services. Bull Mountain is and always has been a part of the Tigard community, and Bull Mountain rightly and ultimately belongs within the city limits of Tigard.
- In the weeks ahead, I intend to address each and every one of allegations and arguments made during the past several months, and set the record straight with the facts and figures necessary to prove my point.
- He pointed out that the City postponed its decision to place this matter on the March 2004 election in order to allow the White Paper Committees time to consider many concerns the Bull Mountain residents had.
- Council considered a proposal by King City, on behalf of individuals on Bull Mountain, for a possible annexation by them of a portion of the area.
- Council will consider as part of the ballot title process, a phase-in of City of Tigard taxes over a three-year period. If this proposal is adopted, the net effect of the annexation on taxes during the first year is estimated to be zero, as the enhanced fees the residents of Bull Mountain currently pay to Washington County are eliminated.
- At the request of the citizens, Council has before it a resolution later in the meeting to change from the ORS 195 single majority vote method to ORS 222 double majority voting method.
- We would prefer to bring Bull Mountain residents in as partners rather than as adversaries. One of the main reasons to bring Bull Mountain into the city is so we can face the challenges the future brings together. We need your insight, your energy and your involvement at least as much as we need your tax dollars.
- I will vote and encourage the rest of the Council to vote to approve the land use application and findings to move forward with the annexation plan and the resolution as the guideline for the annexation, with the caveat that the vote be counted separately for the residents of Tigard and the residents of Bull Mountain."

c. Staff Recommendation

Mr. Ramis stated the staff has prepared two revised resolutions for Council consideration (Council Item #6, Exhibit 5 and Exhibit 6). The first resolution addresses the land use decision and reaches the conclusion that the land use criteria have been satisfied by the record that has been created in the hearing process. If Council agrees with the criteria, then a motion would be in order to adopt the

resolution as well as the accompanying findings. The second resolution addresses the annexation plan and its title is, "A resolution accepting the Bull Mountain Annexation Plan as applicable guidelines to annexation of unincorporated areas within Bull Mountain to the City of Tigard." The plan then becomes the document that establishes the principles by which properties are annexed in the future from the Bull Mountain area. He noted that copies of the two proposed resolutions are available to members of the audience.

d. Council Consideration: Resolution No. 04-58

Councilor Wilson asked where the language regarding the phase in of taxes was located.

Mr. Monahan pointed out on page 3 of the draft findings, finding 11, indicates that phase in of taxes is authorized by ORS 222.111(3), so there is reference in the findings of the land use plan. In addition, finding 12 states, "the proposal being submitted to the voters calls for a phase-in of property taxation over three years."

Motion by Councilor Wilson, seconded by Councilor Sherwood, to adopt Resolution 04-58, A RESOLUTION AND FINAL ORDER APPROVING LAND USE APPLICATIONS ZCA 2003-00003, ZCA 2003-00004, ZCA 2003-00005, ZCA 2003-00006, FOR ANNEXATION OF CONTIGUOUS AREAS IN THE BULL MOUNTAIN AREA, ADOPTING FINDINGS, AND IMPOSING CONDITIONS.

The motion was approved by a unanimous vote:

Mayor Dirksen	-	Yes
Councilor Moore	-	Yes
Councilor Sherwood	-	Yes
Councilor Wilson	-	Yes
Councilor Woodruff	-	Yes

Motion by Councilor Woodruff, seconded by Councilor Wilson, to adopt Resolution 04-59, A RESOLUTION ACCEPTING THE BULL MOUNTAIN ANNEXATION PLAN AS APPLICABLE GUIDELINES TO ANNEXATION OF UNINCORPORATED AREAS WITHIN BULL MOUNTAIN TO THE CITY OF TIGARD.

The motion was approved by a unanimous vote:

Mayor Dirksen	-	Yes
Councilor Moore	-	Yes
Councilor Sherwood	-	Yes
Councilor Wilson	-	Yes
Councilor Woodruff	-	Yes

## 7. CONSIDER KING CITY FEASIBILITY STUDY – This item was heard before Item No. 6

### a. Council Discussion

Mayor Dirksen noted this is discussion by Council regarding the King City Feasibility Study submittal, in which King City outlined their potential process to be undertaken should Tigard authorize King City to further consider annexation of the southern portion of Bull Mountain. He noted the legal authority regarding annexation of Bull Mountain rests with Tigard and Tigard has to either approve or deny their request. He asked Councilors if they had reviewed the King City Feasibility Study.

All the councilors indicated they had reviewed it.

Councilor Wilson acknowledged this is a tough situation and Council needs to respond to the citizens who raised this issue asking King City to look at the possibility which he commended King City for doing. He noted Tigard has been engaged in the process of annexation of the Bull Mountain area a long time before King City started. While he appreciated King City's effort, he did not see any reason for Tigard to discontinue its efforts. He found the King City Feasibility Study to be lacking a lot of information compared with Tigard's annexation plan. He felt it would be a big stretch for King City to be able to provide some of the services to the Bull Mountain area. He recommended Tigard not change its process because of King City's report.

Councilor Moore indicated he concurred with Councilor Wilson's comments. He added if King City were really interested in annexing the south side of Bull Mountain, depending on the Council's decision tonight and if the measure is rejected by voters in the November election, the residents could work with the County and other agencies on a process. He concurred he did not feel that Tigard should discontinue its process.

Councilor Sherwood commented on the amount of material Council received and read. Her mother and stepfather live in King City and they were less than excited about the possibility that the south side of Bull Mountain was even being considered conceptually to be annexed to King City. She concurred that Tigard's process should continue, and if voters turn this proposed annexation down, then King City should have the opportunity to look into this at that time.

Councilor Woodruff noted Tigard's involvement with Bull Mountain has been worked on a long time, and the process should be allowed to be played out. If it does not go anywhere, then King City could look into it.

Mayor Dirksen stated he had prepared a written statement because this was such an important issue. Copy of the statement is on file with the City Recorder (Agenda Item #7, Exhibit 1). Major points of Mayor Dirksen's statement include:

- The King City Feasibility Study appears to conclude that the City of King City could hypothetically provide urban services to the residents of the south slope of Bull Mountain, assuming several significant financial and organizational changes take place. This would primarily be accomplished by contracting out those services, as King City itself lacks the staff or departments needed to provide the services directly.
- While theoretically possible, the study fails to show a compelling reason to believe that King City would be a more logical, better, or even equally capable provider of those services than Tigard.
- King City lacks a proven track record equal to or similar to that of the City of Tigard of providing a full compliment of necessary and expected urban services. Therefore, it becomes abundantly clear that Tigard is still the most qualified, capable, and logical provider of urban services to this area.
- There is no real connection found between King City and the south slope of Bull Mountain.
- In the past, Bull Mountain residents have not been involved in the public affairs of King City, nor has King City shown an interest in Bull Mountain. As late as 2002, when Washington County conducted a study in accordance with Oregon Senate Bill 122 to determine the ultimate provider of urban services for all its unincorporated areas inside the UGB, King City chose not to take an active role in the proceedings.
- The City of Tigard, on the other hand, has long considered Bull Mountain part of its community. Bull Mountain has traditionally been included in Tigard's long-range planning, and residents of Bull Mountain have for years and to this day, sit on numerous City of Tigard boards and committees, including the Planning Commission and the Downtown Task Force. This long and continued involvement by Bull Mountain residents shows that they share this belief that they are part of the Tigard community.
- Another important consideration for this Council is the comparative impact of such an annexation upon the present residents of Tigard. Tigard would continue to be the provider of some services such as parks and library, which is noted in the King City study; without compensatory revenue support for those services. The annexation of the south slope of Bull Mountain to King City would have a major, permanent, detrimental impact upon the residents of the City of Tigard.

- As was stated in the King City study, to be able to provide services to the south slope of Bull Mountain, several new fees and a potential local option levy would be needed to raise the required revenue. It is unlikely that the current residents would vote to approve these increases, but after annexation, it would be a different story.
- If Bull Mountain were to annex to King City, the new King City would have a population of twice its current size, and the new residents could then force any ordinance, resolution, tax measure or code change they desired to put forward.
- The population demographics would be totally different from the present King City, with attendant different needs, and would result in major and fundamental changes to the King City as it now exists.
- In reality, the annexation of Bull Mountain to King City would actually annex King City to Bull Mountain, and King City as it is now known would cease to exist.
- All these changes would largely negate any tax advantages of being part of King City and Bull Mountain residents would find themselves part of a city that lacks staff, established organization and facilities needed to serve the needs of a much larger population.
- For any one of those reason, the proposal should be declined; but together, this would be an irrational course of action that would not be in the best interests of Tigard, King City, or the Bull Mountain residents.
- His recommendation was to say no thanks to the King City proposal to annex any part of the area known as Bull Mountain.

Councilor Sherwood moved, TO DIRECT THAT TIGARD SEND A LETTER TO THE MAYOR OF KING CITY, SAYING THAT TIGARD IS GOING TO CONTINUE ITS PROCESS." Motion seconded by Councilor Moore.

Mr. Monahan asked that the motion also include the phrase, "TIGARD RESPECTFULLY DECLINES KING'S PROPOSAL FOR TIGARD TO GRANT PERMISSION TO KING CITY."

Councilor Sherwood and Councilor Moore concurred to include that language in the motion.

The motion was approved by a unanimous vote:

Mayor Dirksen	-	Yes
Councilor Moore	-	Yes
Councilor Sherwood	-	Yes
Councilor Wilson	-	Yes
Councilor Woodruff	-	Yes



Mayor Dirksen recessed the Meeting at 8:55 p.m. for a short break.  
Meeting reconvened at 9:10 p.m.

8. PUBLIC HEARING – CONSIDER RESOLUTION TO SUBMIT THE BULL MOUNTAIN ANNEXATION PLAN TO THE VOTERS AT THE NOVEMBER 2, 2004 GENERAL ELECTION

a Open Public Hearing

Mayor Dirksen opened the public hearing.

b. Summation by Administration Staff

Mr. Ramis noted copies of the revised resolution had been distributed to the Councilors and available to members of the audience, that would submit the proposed annexation to the voters in November 2004, specifies the ballot title, and includes the explanatory statement describing the issues (Council Item #8, Exhibit 3). At this time, there will be an opportunity for citizens to give their point of view on whether Council should submit this ballot measure to the voters as well as comment on the contents of the ballot title. Once the decision is made on the proposed resolution, there will be another legal notice published in the Tigard Times to allow citizens another opportunity to contest the final ballot title. The appropriate subject for testimony would be the question of whether this matter should be submitted to the voters using double majority, advocate some other version of a ballot title to be submitted to the voters, or the issue of the draft ballot title. He explained that the next legal notice regarding the actual ballot title explains that citizens have an opportunity to challenge the constitutionality of the ballot title. If any challenge is received, then the Council would hold a hearing on the appeal at its August 24 Business Meeting.

Mayor Dirksen noted public testimony is limited to 3 minutes per person. Testimony should be directed toward the ballot title language.

At the request of Councilor Woodruff, Mr. Ramis reviewed the impacts the two prior resolutions have. He explained the third and ultimate question is whether to submit this matter to the voters for a decision. This resolution proposes to submit to the voters of the City of Tigard and the residents of Bull Mountain whether to annex the Bull Mountain area using the double majority method. He noted Councilors, in their comments earlier, indicated that they favored the double majority method of vote. Part of this resolution is the step to submit the measure to the voters in November 2004, using the double majority method. Comments should relate to what is on the proposed ballot title.

Councilor Woodruff pointed out to the audience that all the Councilors have indicated their support of the double majority so comments do not need to address the single majority process.

Mr. Ramis noted the resolution indicates the vote will be by the double majority and also specifies the content of the ballot title. He also noted the resolution and the explanatory statement specifically indicate that City of Tigard will phase in property taxes in the Bull Mountain area.

The Council and Mr. Ramis discussed where that language concerning double majority was located in the resolution.

Mr. Ramis noted there is a limit to the number of words that are allowed in the caption (10 words), question (20 words), and summary (150 words), as well as the explanatory statement (500 words).

Councilor Wilson noted the phase in of taxes were just for the properties in the unincorporated Bull Mountain area if they are annexed, and does not apply to existing City of Tigard property owners.

c. Public Testimony

Gretchen Buehner, 13249 SW 136<sup>th</sup> Place, Tigard, indicated her support of this annexation proposal. She suggested amending the explanatory statement regarding the comprehensive plan update process. Washington County's policies are to allow cities to conduct comprehensive planning updates in the urban growth boundary expansion areas. She suggested the addition of language that should the annexation be approved, Tigard would conduct the planning for Areas 63 and 64 as part of its comprehensive review process, and noted she could provide the required language. It is important for people to be aware of the change in Washington County's policy, because if the annexation is not approved, it is unlikely Washington County will allow Tigard to continue to the planning for Areas 63 and 64. Given Washington County's planning history, it is unlikely good planning will occur in that area.

Julie Russell, 12662 SW Terraview Drive, unincorporated Bull Mountain, pointed out comments have been made in the past that Tigard has been planning for this annexation for 20 years. She asked what has been done for the planning for parks. It is well documented that Bull Mountain is park deficient which is acknowledged in the Parks White Paper. Bull Mountain residents do not have a lot of trust that something will happen. The explanatory statement indicates that the City will begin planning for a park within a year, but she had questions such as, to what standard will the park be, where will it be placed, where will the money come from. Residents also want safe

streets as Bull Mountain and Beef Bend Road are very unsafe. Planning, density, and livability for Bull Mountain and in the rest of the City of Tigard are other concerns the resident do not feel have been heard.

Mayor Dirksen said he would like to meet with anyone who has concerns after the decision has been made to put this issue on the ballot. He pointed out that while the City has been planning to annex Bull Mountain for 20 years, the citizens of Tigard would be very upset if the City were to spend thousands of dollars to provide parks on Bull Mountain before the area is part of the City. Once the area is annexed, then the City would be free to acquire land for park purposes. Until that happens, they are not able to purchase property.

Ms. Russell asked if the system development charges collected in the north part of Bull Mountain were used on projects in that area or those funds used in other parts of the City.

Mayor Dirksen explained this issue has come up many times. He explained the only land on Bull Mountain that has been annexed in the past is land that will imminently be developed and the development planning completed and open space generally is not included in the proposed development.

Councilor Wilson explained there was 10 FTE (full time equivalent) positions in last year's budget, and was reduced to 9.5 FTE in this year's budget to maintain Tigard parks. It costs \$1 million a year to maintain the existing City parks. There is \$2 million sitting in the Park SDC fund now that would be used to purchase land for parks and approximately \$1 million is collected each year. The City currently does not have funds in its current budget to hire additional FTE to mow and maintain more parks. He explained that what the City was asking is for the Bull Mountain area to be annexed to the City and those residents to contribute their share toward maintaining parks. During past public testimony, many of the speakers indicated they use City of Tigard parks, which the City is happy that they do, but they also need to help carry their share of the costs. If the area is annexed, the area definitely will get a park.

Councilor Woodruff stated Council has talked about adopting resolutions between now and November when the election occurs to indicate how various aspects of the White Paper Recommendations. Councilor Woodruff requested that the public testimony focus to the ballot title, not the overall annexation issue at this time.

Keshmira McVey, 13525 SW Beef Bend Road, noted she, along with Goli Ameri, applaud the Council for changing the vote from a single majority to a double majority vote. She asked why the Council is rapidly proceeding with placing this matter on the November 2, 2004 Election when there is a high likelihood the vote on the ballot measure would be nullified when the issue is appealed to LUBA. She looks forward to

the additional issues that Councilor Woodruff mentioned that would identify benefits coming to Bull Mountain and City of Tigard as a result of this proposed annexation.

Henry Kane, 12077 SW Camden Lane, Beaverton, pointed out the Council has received a copy of his "Intent to appeal to LUBA any council resolution to annex Bull Mountain using single majority or double majority" (Council Agenda #8, Exhibit #5). He stated he did not feel the legal notice concerning this public hearing on the ballot title was legal as the notice advertisement did not include the ballot title information and asked when there would be an opportunity to comment on whether the ballot title complies with ORS 250.035. The notice on August 5 did not include anything about what the ballot title included. In his letter (Council Agenda #8, Exhibit #4), he pointed out the legal description in the summary section of the Ballot Title needs to provide an adequate legal description and what is included is nothing. He has inspected the City files and the legal description was a three-page, single-spaced document describing the boundary. In his memorandum concerning the land use findings (Exhibit 5) on page 5, he stated, "the annexation will not cause reduction in county property taxes revenue," but both the City annexation plan and staff report indicates there would be a reduction in taxes. He felt the City was either lying then or now. Each time an error is made, it is one more reason for LUBA to decide to reverse and remand the decision. He asked that when Council adopts its resolution to place this on the ballot, that the Council include a statement stating the vote will be based on ORS Chapter 222, double majority. He argued this annexation proposal involves two separate jurisdictions: The City of Tigard and the unincorporated area on Bull Mountain, both of which has a right to a separate majority.

Mr. Ramis responded that Mr. Kane cited the statutes referring to the form of ballot titles, which does not prescribe the form of the notice. The fact people have had notice is demonstrated by the fact they are here. The notice provision that was cited clearly did not include the necessity of putting the entire ballot title in the newspaper. ORS 250.275(5) states "The city elections officer, upon receiving a ballot title for a city measure to be referred or initiated from the city attorney or city governing body, shall publish in the next available edition of a newspaper of general circulation in the city a notice of receipt of the ballot title including notice that an elector may file a petition for review of the ballot title not later than the date referred to in ORS 250.296." Once the City Council has adopted the ballot title by resolution, another notice will be published to include the complete ballot title (caption, question and summary) and that citizens will have an opportunity to challenge the ballot title.

Holly Shumway, 14535 SW Woodhue, Bull Mountain, asked if the voters will see the statement "The Bull Mountain Annexation Plan Approval and Annexation by Tigard" on the ballot when they vote.

Mr. Ramis responded Ms. Shumway was looking at the resolution that was part of the original packet. Copies of the revised resolution staff prepared this afternoon had been distributed to the audience before this hearing, and the revised caption is "Annexation by Tigard of Bull Mountain Areas."

Ms. Shumway stated this new language addressed her concern. She noted in the explanatory statement, the benefits to residents of Bull Mountain include a list of six benefits, and the second item states, "broader civic participation and voting power in the affairs of the City of Tigard." She asked what was the first scheduled election would the residents be able to vote on Council candidates.

Mr. Monahan replied if the annexation is approved, the effective date of the annexation is July 2005. Residents would then be able to participate in all election-related issues after that date. He explained the next opportunity to run and/or vote for a city council seat would be in November 2006. Councilor Woodruff explained the residents would be able to vote on any city wide election after July 2005. Bull Mountain residents would not be able to vote on council candidates in November 2004 because they were not city residents at that time.

Mayor Dirksen noted that Goli Ameri had indicated she wished to speak about the Bull Mountain process under the Visitor's Agenda. He asked if Ms. Ameri was still present - she was not present at this time. He then noted there was no one else who had signed up to speak, but asked if anyone wishes to speak who did not sign up.

Ellen Beilstein Godowski, 14630 SW 139<sup>th</sup> Avenue, Bull Mountain, stated the summary of the ballot title states, "Includes islands within existing city limits." It appears there are areas outside the Bull Mountain unincorporated area are being considered as part of this proposal. She did not know where these islands are located; therefore she felt the ballot title caption needs to indicate islands would also be included in the annexation. The caption should also include language indicating the taxes for Bull Mountain residents would be phased in, so that both residents of the City of Tigard and of Bull Mountain are aware there will be a reduction of taxes for the Bull Mountain area, but not for City of Tigard residents. She asked if the annexation is approved, could Bull Mountain residents participate in a recall effort after July 2005. She also proposed that if property taxes were reduced for the Bull Mountain area, taxes for existing City of Tigard residents should be reduced as well.

Mayor Dirksen responded if the Bull Mountain area were annexed, the effective date of the annexation of July 2005, and residents of the area could be involved in any election procedure including recall.

Dick Franzke, 14980 SW 133<sup>rd</sup>, Bull Mountain, said he is confused as to the process because the City began with the ORS Chapter 195 process, developed the annexation

plan, but has now changed the procedure to follow ORS Chapter 222, and has approved annexation guidelines. He felt the City should provide information relating to the efficacy (the power to produce a desired effect) of the plan, something people can rely on.

Mayor Dirksen responded he was one of the Councilors who made the recommendation to change the voting process to use ORS Chapter 222. He noted that by accepting the annexation guidelines as part of the resolution, this Council has gone on record to say that if annexation takes place, these are things the City intend to do. If we go forward and that doesn't happen, then the citizens could rightly challenge the Council and ask why it wasn't being done. ORS Chapter 222 does not require a plan. If Council had proceeded with Chapter 195, the plan would have been part of the annexation ordinance, and would have been codified as part of that annexation ordinance. By not using ORS Chapter 195, the plan that was prepared does not and cannot exist as a plan. Council discussed the option of approving the plan as a plan, but was cautioned that it might be challenged as being a leftover from ORS 195. To put aside that concern, not willing to cast aside the plan either, Council has chosen to include the plan as a guideline as part of the resolution, by which legally that is all it is allowed to be called. Regarding the White Papers, Mayor Dirksen stated he believed that under the requirements of ORS 195, the white papers could not be made part of the official portion of the plan, as the plan itself addresses how the annexation would take place, not the services to be provided after the fact. The annexation process has now been changed to follow ORS 222. It is his understanding that Council intends to address various components of the White Papers to make it clear what the direction are going to be if the annexation is approved.

Evan Russell, 12662 SW Terraview, unincorporated Bull Mountain, stated Bull Mountains residents want a great place to live they can be proud of. There is a lack of sidewalks and curbs in Tigard, because developers were not required to put in curbs, drains and sidewalks when they developed property and the City does not have the money to do that now. He questioned how all the problems were going to be solved. He applauded the Council to change this to a double majority vote, which gives everyone a fair opportunity to vote. For the next 11 weeks, people will be presenting their cases, and hopefully both sides will come to the same conclusion. Some things may take a couple of years to accomplish after annexation. Citizens in Bull Mountain did not want to feel like this was being forced down their throats, but let's make this happen so that changes for the better can occur.

Ron Ellis Gaut, 10947 SW Chateau Lane, Tigard, stated he felt that the Councilor's comments were well considered, and he was pleased to see that change to a double majority vote. He hoped there will not be a waste of money challenging this decision in needless litigation, as that would be a loose/loose result. Regarding the ballot measure and educating the citizens of Tigard and Bull Mountain, he hoped there

would be information available that is objective and unbiased about the implications of annexation, both positive and negative. There needs to be information about the financial and service impacts on citizens of the current city as well as on the annexed area. He hoped the information would be communicated in such a way that the voters can look at both the positive and not so positive impacts, in order to come to a fully considered decision. He thanked the Council for listening to everyone in a fair manner.

John Frewing, 7110 SW Lola Lane, Tigard, stated that regarding comments made by Mr. Franzke, he noted that the City of Tigard already has a comprehensive plan which has not been updated since 1983 and other regulations that are not currently being followed regarding the statements made by the Mayor and Councilors that you are going to use all your powers to do all the things included in the annexation plan for Bull Mountain, he asks why the City doesn't do the things it has promised its existing residents. Council also needs to make similar commitments to existing residents of the City of Tigard.

Jeffrey Renshaw, 13990 SW 158<sup>th</sup>, west slope of Bull Mountain, stated he did not have much time to review the proposed ballot title in the revised resolution. He concurred with a previous speaker concerning the inclusion of annexation of islands with the Bull Mountain area might involve more than one issue in the ballot title. His second concern was to urge the Council to get a second opinion which Mr. Kane referenced in his testimony on July 27, regarding the requirement of a double majority. He supports the revised resolution which changed the vote to the double majority process. He proposed taking this a step further by including the following changes:

- a) 6<sup>th</sup> Whereas paragraph, including a reference to using the double majority process in counting votes separately in the City of Tigard and in the Bull Mountain area.
- b) Section 4, states: The precincts for the election shall constitute all the territory within the corporate limits of the City of Tigard and all the other precincts in the unincorporated areas." He proposed adding a reference to ORS Chapter 222, and the double majority voting process.

These language changes would make it clear that the City is committed to using the double majority process. Not everyone in the City and the affected area has listened to the proceedings or understand what is meant by double majority. He mentioned the possibility of using the double majority voting method to his neighbor and it took 10 minutes to explain what double majority meant, and his neighbor will be someone voting on this proposal.

Mr. Ramis stated he had prepared some additional language for Council's consideration.

Alice Ellis Gaut, 10967 SW Chateau Lane, Tigard, stated she had an amendment to propose to the Council. Somewhere in the explanatory statement, she felt there should be an explanation of the fiscal impact the proposed annexation will have on the existing city residents, as well as the reference to the phase in of taxes in the area being annexed on Bull Mountain. This information should be included in the ballot language, not just the educational campaign material.

As there was no one else wishing to testify, Mayor Dirksen closed the public hearing.

d. Staff Recommendation

Mr. Ramis recommended the Council modify the resolution with respect to the use of double majority. The changes specifically are:

- Section 4, add the following sentence, "The election shall be conducted under the double majority provisions of ORS Chapter 222."
- In the Explanatory Statement, first sentence, amended to read, "This measure, if approved in both the City and the area proposed for annexation would annex the unincorporated Bull Mountain area."
- At the bottom of the page, in the second item, the words "of Tigard" may need to be deleted in order to make sure the word count is not exceeded.

e. Council Discussion

Councilor Woodruff asked Mr. Ramis what he thought about the suggestion several people made about there being two subjects if the island annexations were included in the ballot measure.

Jim Hendryx, Community Development Director, stated there are two or three islands on Fern Street, and staff has always considered them to be part of the Bull Mountain annexation process. During all the hearing process, notices referred to the Fern Street properties were included in the annexation proposal, and notices were sent to the owners of the Fern Street properties.

The Council and Mr. Ramis discussed whether or not inclusion of the Fern Street islands might involve a second subject.

Mr. Monahan suggested excluding the island properties from this annexation proposal, and Council could by motion at another time, bring those properties into the City.

Councilor Woodruff suggested that the tax lot numbers be included in the Ballot Measure Summary, so confusion is not created.



Mr. Ramis stated this might be able to be done as long as the word count is not exceeded.

Ms. McGarvin requested that Council take a break before making a motion in order for staff to modify the resolution, ballot title, and explanatory statement, and be able to verify the word count on the caption, question, summary and explanatory statement.

Councilor Wilson suggested that based on the litigious nature of this whole proposal, he would prefer the reference to the islands be eliminated, to avoid any opportunity for the ballot measure being overturned on a technicality.

Mayor Dirksen asked if Council had other questions or concerns, or was Council ready to make a motion.

Councilor Wilson noted Gretchen Buehner raised the issue about the City including Areas 63 and 64 in the City's planning process. Tigard has been aware of that issue which is one reason the Council brought this annexation proposal forward in the first place. When Council first discussed this and the planning of those areas, Council felt that Bull Mountain annexation should be addressed first. If the Bull Mountain annexation fails, then all bets are off. He asked what other Councilors felt about this.

Mayor Dirksen concurred the Council made it clear it wanted to address those two areas. He did not feel there was a problem between Tigard and the Washington County Commissioners regarding this.

Councilor Sherwood noted she concurred with Mayor Dirksen and Councilor Wilson.

Ms. McGarvin noted the following typing errors in the legal description:

- Line 3 and 5, subdivision should be subdivisions.
- Line 6, change "BPA Power line" to "BPA power lines" in order to be consistent.
- Line 7 and 9, change High Tor Subdivision to "High Tor Subdivisions."

She noted these changes do not change the word count.

Mayor Dirksen asked if there were any other changes before a motion is made. He noted the ballot title is included in the resolution, with caption, question, and summary, as well as an explanatory statement.

f. Mayor Dirksen closed the Public Hearing

Mayor Dirksen recessed the meeting at 10:10 p.m.

Mayor Dirksen reconvened the meeting at 10:21 p.m.

Mayor Dirksen confirmed that Mr. Ramis has indicated the word count is within the prescribed limits, and then asked Mr. Ramis to review the changes that were made before a motion is made.

Mr. Ramis noted copies of the revised resolution had been distributed to the Council, staff, and members of the audience (Agenda Item #8, Exhibit 5), and the changes made are as follows:

- Explanatory Statement, first sentence: "This measure, if approved in both the city and the area proposed for annexation...."
- Explanatory Statement, the second item in the list, the words "of Tigard" did not have to be deleted as the word count still meets the maximum number.
- Resolution, 1<sup>st</sup> page, 6<sup>th</sup> Whereas, at the end of paragraph, add the words, "double majority" at the end of the sentence.
- Resolution, 2<sup>nd</sup> page, Section 4, add the sentence "The election shall be conducted under the double majority provisions of ORS Chapter 222" after the existing sentence.
- Resolution, 2<sup>nd</sup> Page, Summary, deleted the phrase, "Includes islands within the existing city limits."
- Resolution, 2<sup>nd</sup> Page, changes to the legal description which Ms. McGarvin had pointed out.

Ms. McGarvin noted the map that is referred to as an exhibit would need to be changed to eliminate the island annexations.

Mr. Ramis concurred the motion should be an instruction to staff to eliminate the islands from the map.

g. Council Consideration: Resolution No. 04-60

Motion was made by Councilor Sherwood, seconded by Councilor Woodruff, TO APPROVE RESOLUTION 04-60, A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TIGARD SUBMITTING THE PROPOSED ANNEXATION OF BULL MOUNTAIN AREAS TO THE VOTERS OF THE CITY OF TIGARD AND TO VOTERS IN THE AREA PROPOSED TO BE ANNEXED as indicated in the revised resolution, and to direct the staff to eliminate the islands from the map as Exhibit A.

The motion was approved by a unanimous vote:

Mayor Dirksen	-	Yes
Councilor Moore	-	Yes
Councilor Sherwood	-	Yes
Councilor Wilson	-	Yes
Councilor Woodruff	-	Yes

9. PUBLIC HEARING – CONSIDER RESOLUTION FINALIZING THE FORMATION OF SANITARY SEWER REIMBURSEMENT DISTRICT NO. 24 (SW Gaarde Street)

- a. Mayor Dirksen opened the Public Hearing
- b. Gus Duenas, City Engineer, presented the staff which included a PowerPoint presentation, copy of which is on file with the City Recorder.
- c. Public Testimony – No one wished to testify.
- d. Staff Recommendation  
  
Mr. Duenas indicated the staff recommendation was to approve the Resolution.
- e. Council Discussion – none.
- f. Mayor Dirksen closed the public hearing.
- g. Council Consideration: Resolution No. 04-61

Motion by Councilor Wilson, seconded by Councilor Sherwood, to APPROVE RESOLUTION 04-61, A RESOLUTION FINALIZING SANITARY SEWER REIMBURSEMENT DISTRICT NO. 24 (GAARDE STREET).

The motion was approved by a unanimous vote:

Mayor Dirksen	-	Yes
Councilor Moore	-	Yes
Councilor Sherwood	-	Yes
Councilor Wilson	-	Yes
Councilor Woodruff	-	Yes

10. CONSIDER ORDINANCE AUTHORIZING THE TRANSFER OF THE TELECOMMUNICATIONS FRANCHISE AGREEMENT BETWEEN THE CITY OF TIGARD AND PORTLAND GENERAL DISTRIBUTION LLC TO ONFIBER

COMMUNICATIONS, INC., AUTHORIZING THE MAYOR TO SIGN, AND  
DECLARING AN EMERGENCY.

a. Staff Report: Finance Staff

Craig Prosser, Finance Director, presented the staff report. Staff recommends approval of the proposed Ordinance.

Councilor Moore indicated he would abstain from participating and voting on this proposed ordinance as he is employed by a subsidiary of PGE.

b. Council Discussion

c. Council Consideration: Ordinance No. 04-08

Motion by Councilor Wilson, seconded by Councilor Woodruff, to approve Ordinance No. 04-08, AN ORDINANCE AUTHORIZING THE TRANSFER OF THE FRANCHISE AGREEMENT BETWEEN THE CITY OF TIGARD AND PORTLAND GENERAL DISTRIBUTION LLC TO ONFIBER COMMUNICATIONS, INC., AUTHORIZING THE MAYOR TO SIGN A REVISED AGREEMENT, AND DECLARING AN EMERGENCY.

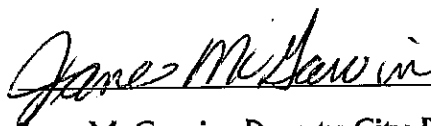
The motion was approved by a unanimous ROLL CALL vote:

Mayor Dirksen	-	Yes
Councilor Moore	-	Yes
Councilor Sherwood	-	Yes
Councilor Wilson	-	Yes
Councilor Woodruff	-	Yes

11. COUNCIL LIAISON REPORTS - None

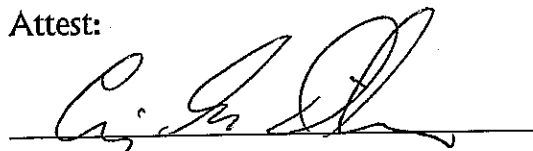
12. NON AGENDA ITEMS – None

13. Mayor Dirksen adjourned the meeting at 10:34 p.m.



Jane McGarvin, Deputy City Recorder

Attest:



Mayor, City of Tigard

Date: September 14, 2004